UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,566	07/16/2001	Choi Joon-Bo	Q63227	2317

7590   11/10/2005

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EXAMINER
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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action **_Before the Filing of an Appeal Brief_**	09/904,566	JOON-BO ET AL.
	Examiner	Art Unit	
	Kenny Lin	2154	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>28 October 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

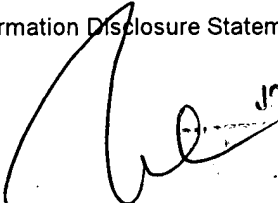   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *none*.

   Claim(s) objected to: *none*.

   Claim(s) rejected: *1-14*.

   Claim(s) withdrawn from consideration: *none*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see other sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

JOHN FOLLANSBEE
PATENT EXAMINER
ART UNIT 2100

U.S. Patent and Trademark Office

PTOL-303 (Rev. 7-05)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 11082005

Advisory Action

1.   Applicant's arguments filed on 10/28/2005 have been fully considered but they are not

persuasive.

2.   In the remark, applicant argued (1) claim 1 did not necessitate the new ground of

rejection since the amendment was merely grammatical/stylistic in nature and did not change the

scope of the claim, therefore Finality of the Office Action is improper. (2) Ying did not teach or

suggest determining a priority of at least one of the plurality of slaves to be used as a backup

master, when a network master disappears, according to the connection information received

from the at least one of the plurality of slaves claimed in claim 1. (3) Ying did not teach or

suggest announcing the determined priority to at least another one of the plurality of slaves

claimed in claim 1. (4) Ying does not teach or suggest steps (b) or (c) of claim 8 since nowhere

do the cited portions of Ying teach or suggest checking a rank assigned to the slave based on

connection information received from the slave, wherein the rank is used for choosing a new

network master and is received before the disappearance of the preexisting network master and

changing the slave to the new network master if is determined that he rank is highest of any one

assigned to a plurality of slaves. (5) Ying does not determine that the master has disappeared

until the predetermined time period lapses. (6) Nowhere does Ying even remotely teach or

suggest attempting to establish a connection with the new network master when it is determined

that one of the remaining plurality of slaves does not have a highest priority, according to the

backup master rank information. (7) Nowhere does van der Tuijn mention determining a backup

master priority nor has the examiner provided any objective reason why one of ordinary skill in

the art would have been motivated to modify van der Tuijn based on Ying to include this feature

of the claimed invention. (8) neither Ying nor van der Tuijn teaches or suggests steps (b) or (c)

of claim 8.

3.   Examiner traverse the argument:

As to point (1), the claims necessitate new ground of rejection since the amendment "announcing

the determined priority information of backup master" to "announcing the determined priority"

changed the scope of the claim. Such amendment broaden the limitation. Furthermore, the

original claim language "the determined priority information of backup master" is different from

"the priority of the plurality of slaves to be used as backup master". Therefore, the amendment

change the scope of the claims and a new ground of rejection is proper.

As to points (2), (3) and (7) in response to applicant's arguments against the references

individually, one cannot show nonobviousness by attacking references individually where the

rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

van der Tuijn taught to receive connection information from at least one of a plurality of slaves

in a network (col.7, lines 36-45; coupling and decoupling of the connection); determine a priority

according to the received connection information (col.7, lines 36-50; priority is determined base

on the coupling and decoupling of the connections); and announcing the determined priority to at

least another one of the plurality of slaves (col.7, lines 53-55; priorities of existing links and new

links are reordered).   Ying taught to use a determined priority to choose a backup master when

the network master disappears (col.2, lines 44-62, col.7, lines 35-49, col.10, lines 50-67, col.11,

lines 1-30, 51-58). Although the method of setting up priorities in van der Tuijn and Ying are different, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of van der Tuijn and Ying by using van der Tuijn's priority determination method to determine a backup master ranking. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of van der Tuijn and Ying because Ying's teaching of determining a backup master using predetermined priority provide system recovering from a failure of the master (col.2, lines 34-43).

As to points (4) and (8), in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Ying taught the invention substantially as claimed including a method for designating a new master of a network when a preexisting network master disappears, the method comprising the steps of: determining at a slave whether the preexisting network master has disappeared (col.2, lines 48-51, col.7, lines 5-23, 35-49, col.10, lines 50-65); if the preexisting network master has disappeared, checking a rank assigned to the slave, wherein the rank is used to choosing a new network master and is received before the disappearance of the preexisting network master (col.2, lines 44-62, col.7, lines 35-49, col.10, lines 50-67, col.11, lines 1-30, 51-58); and changing the slave to the new network master if it is determined that the rank is highest of any one assigned to a plurality of slaves (col.2, lines 48-62, col.7, lines 35-49, col.10, lines 50-65, col.11, lines 24-58). Ying did not specifically teach that the rank assignment is based on connection information received from

the slave. Van der Tuijn taught a method to determine slave priority by using connection

information received from the slaves (col.7, lines 36-55; determine priority based coupling and

decoupling of slaves). Although the method of setting up priorities in Ying and van der Tuijn are

different, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teachings of Ying and van der Tuijn by using van der Tuijn's priority

determination method to determine slave ranking and determine a backup master when master

disappears. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the teachings of Ying and van der Tuijn because van der Tuijn's

teaching of determining slaves priority ranking based on slaves coupling and decoupling enables

Ying's method to reorder the rankings of the slaves when new slaves connect to the master

(col.7, lines 36-55).

As to point (5), Ying taught to pre-program the slave nodes different amount of wait period to

become the backup master when the master fail to respond with an expected time and the wait

period time expires. Ying taught that once the master node fail to respond to the slave node

within an expected time, the slave node then trigger the wait period timer. Therefore, there

exists two different time periods: 1) expected response time and 2) wait period time. Ying taught

to determine that the master has disappeared when the expected response time expires (realizing

the failure of the master), then start the wait period time. The slave node only becomes the

backup master after the wait period expires. Therefore, Ying reads on checking whether the

preexisting network master has disappeared.

As to point (6), Ying taught the step of attempting to establish a connection with the new

network master when it is determined that one of the remaining plurality of slaves does not have

a highest priority, according to the backup master rank information (col.2, lines 37-39, col.7,

lines 39-49, col.9, lines 6-22, 43-48, 49-65, col.10, lines 15-23, 36-43, 54-62, col.11, lines 1-9,

24-58). Each node is capable of both sending and receiving status signal messages and using

these messages to establish and maintain connection with the master node or any new master

node (figs.5-6; col.7, lines 50-58, col.9, lines 49-65, col.10, lines 15-23, 54-62).